

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MARK YOUNGERS, KIMBALL LLOYD,  
FRANCES BRIGGS, JOSEPH D. MITCHELL,  
BRENDAN HOFFMAN, AND ALFRED TOLLI,  
Individually and on Behalf of All Others Similarly  
Situated,

Plaintiffs,

- against -

VIRTUS INVESTMENT PARTNERS, INC., *et al.*,

Defendants.

Case No. 15-cv-8262 (WHP)

ECF Case

**STIPULATION OF VOLUNTARY  
DISMISSAL UNDER FED. R. CIV.  
P. 41(a)(1)(A)(ii)**

WHEREAS, the statute of limitations applicable to claims under both Section 11 and Section 12(a)(2) of the Securities Act of 1933 is contained in Section 13 of the Securities Act, 15 U.S.C. § 77m; and

WHEREAS, the Court held in its July 1, 2016 Opinion and Order that Plaintiffs' claim under Section 11 of the Securities Act is time-barred under the one-year discovery provision of Section 13;

IT IS HEREBY STIPULATED AND AGREED, that Plaintiffs' claim under Section 12(a)(2) (Count IV), the sole remaining claim against Defendant VP Distributors, LLC, also is hereby dismissed with prejudice in accordance with the Court's holding in the July 1 Order as to the Section 11 claim, except as to the parties' appellate rights, which are preserved in full.

**STIPULATED TO BY:**

Date: September 9, 2016

**THE ROSEN LAW FIRM, P.A.**



Laurence M. Rosen, Esq.  
Phillip Kim, Esq.  
Jonathan Stern, Esq.  
275 Madison Avenue, 34<sup>th</sup> Floor  
New York, NY 10016  
Phone: (212) 686-1060  
Fax: (212) 202-3827  
Email: lrosen@rosenlegal.com  
pkim@rosenlegal.com  
jstern@rosenlegal.com

*Counsel for Plaintiffs*

**SIMPSON THACHER & BARTLETT LLP**



Joseph M. McLaughlin  
George S. Wang  
Daniel J. Stujenske  
Shannon K. McGovern  
425 Lexington Avenue  
New York, NY 10017  
Tel: (212) 455-2000  
Fax: (212) 455-2502  
Email: jmclaughlin@stblaw.com  
gwang@stblaw.com  
dstujenske@stblaw.com  
smcgovern@stblaw.com

*Counsel for Defendants Virtus Investment  
Partners, Inc., VP Distributors, LLC, and  
George R. Aylward*

SO ORDERED:



WILLIAM H. PAULEY III  
U.S.D.J.

9/16/16